

AMENDMENTS TO LB 994

(Amendments to E & R amendments, AM7178)

Introduced by Jensen, 20

1 1. Insert the following new sections:

2 Sec. 30. Section 71-101, Revised Statutes Supplement,
3 2005, is amended to read:

4 71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to
5 71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354, ~~and 71-2801~~
6 ~~to 71-2823~~ and the Physical Therapy Practice Act shall be known and
7 may be cited as the Uniform Licensing Law.

8 For purposes of the Uniform Licensing Law, unless the
9 context otherwise requires:

10 (1) Board or professional board means one of the boards
11 appointed by the State Board of Health pursuant to sections 71-111
12 and 71-112;

13 (2) Licensed, when applied to any licensee in any of the
14 professions named in section 71-102, means a person licensed under
15 the Uniform Licensing Law;

16 (3) Profession or health profession means any of the
17 several groups named in section 71-102;

18 (4) Department means the Department of Health and Human
19 Services Regulation and Licensure;

20 (5) Whenever a particular gender is used, it is construed
21 to include both the masculine and the feminine, and the singular
22 number includes the plural when consistent with the intent of the

1 Uniform Licensing Law;

2 (6) License, licensing, or licensure means permission to
3 engage in a health profession which would otherwise be unlawful
4 in this state in the absence of such permission and which is
5 granted to individuals who meet prerequisite qualifications and
6 allows them to perform prescribed health professional tasks and use
7 a particular title;

8 (7) Certificate, certify, or certification, with respect
9 to professions, means a voluntary process by which a statutory,
10 regulatory entity grants recognition to an individual who has met
11 certain prerequisite qualifications specified by such regulatory
12 entity and who may assume or use the word certified in the title or
13 designation to perform prescribed health professional tasks. When
14 appropriate, certificate means a document issued by the department
15 which designates particular credentials for an individual;

16 (8) Lapse means the termination of the right or privilege
17 to represent oneself as a licensed, certified, or registered person
18 and to practice the profession when a license, certificate, or
19 registration is required to do so;

20 (9) Credentialing means the totality of the process
21 associated with obtaining state approval to provide health care
22 services or human services or changing aspects of a current
23 approval. Credentialing grants permission to use a protected
24 title that signifies that a person is qualified to provide the
25 services of a certain profession. Credential includes a license,
26 certificate, or registration; and

27 (10) Dependence means a compulsive or chronic need for

1 or an active addiction to alcohol or any controlled substance or
2 narcotic drug.

3 Sec. 31. Sections 31 to 58 of this act shall be known and
4 may be cited as the Physical Therapy Practice Act.

5 Sec. 32. The purpose of the Physical Therapy Practice
6 Act is to update and recodify statutes relating to the practice of
7 physical therapy. Nothing in the act shall be construed to expand
8 the scope of practice of physical therapy as it existed prior to
9 the operative date of this section.

10 Sec. 33. For purposes of the Physical Therapy Practice
11 Act, the definitions found in sections 34 to 49 of this act apply.

12 Sec. 34. Approved educational program means a program
13 for the education and training of physical therapists and physical
14 therapist assistants approved by the board pursuant to section 57
15 of this act.

16 Sec. 35. Board means the Board of Physical Therapy.

17 Sec. 36. Department means the Department of Health and
18 Human Services Regulation and Licensure.

19 Sec. 37. Direct supervision means supervision in which
20 the supervising practitioner is physically present and immediately
21 available and does not include supervision provided by means of
22 telecommunication.

23 Sec. 38. Evaluation means the process of making clinical
24 judgments based on data gathered from examination of a patient.

25 Sec. 39. General supervision means supervision either
26 onsite or by means of telecommunication.

27 Sec. 40. Jurisdiction of the United States means any

1 state of the United States, the District of Columbia, the
2 Commonwealth of Puerto Rico, or any American territory.

3 Sec. 41. Manual therapy means skilled hand movements
4 intended to improve tissue extensibility, increase range of motion,
5 induce relaxation, mobilize or manipulate joints or soft tissue,
6 modulate pain, or reduce soft tissue restrictions, swelling, or
7 inflammation.

8 Sec. 42. Non-treatment-related tasks means clerical,
9 housekeeping, facility maintenance, or patient transportation
10 services related to the practice of physical therapy.

11 Sec. 43. Physical therapist means a person licensed to
12 practice physical therapy under the Physical Therapy Practice Act.

13 Sec. 44. Physical therapist assistant means a person
14 certified as a physical therapist assistant under the Physical
15 Therapy Practice Act.

16 Sec. 45. Physical therapy or physiotherapy means:

17 (1) Examining, evaluating, and testing individuals
18 with mechanical, physiological, and developmental impairments,
19 functional limitations, and disabilities or other conditions
20 related to health and movement and, through analysis of the
21 evaluative process, developing a plan of therapeutic intervention
22 and prognosis while assessing the ongoing effects of the
23 intervention;

24 (2) Alleviating impairment, functional limitation, or
25 disabilities by designing, implementing, or modifying therapeutic
26 interventions which may include any of the following: Therapeutic
27 exercise; functional training in home, community, or work

1 integration or reintegration related to physical movement and
2 mobility; therapeutic massage; manual therapy; recommendation,
3 application, and fabrication of assistive, adaptive, protective,
4 and supportive devices and equipment; airway clearance techniques;
5 integumentary protection techniques; nonsurgical debridement
6 and wound care; physical agents or modalities; mechanical and
7 electrotherapeutic modalities; and patient-related instruction; but
8 which does not include the making of a medical diagnosis;

9 (3) Purchasing, storing, and administering topical
10 and aerosol medication in compliance with applicable rules and
11 regulations of the Board of Pharmacy regarding the storage of such
12 medication;

13 (4) Reducing the risk of injury, impairment, functional
14 limitation, or disability, including the promotion and maintenance
15 of fitness, health, and wellness; and

16 (5) Engaging in administration, consultation, education,
17 and research.

18 Sec. 46. Physical therapy aide means a person who is
19 trained under the direction of a physical therapist and who
20 performs treatment-related and non-treatment-related tasks.

21 Sec. 47. Student means a person enrolled in an approved
22 educational program.

23 Sec. 48. Testing means standard methods and techniques
24 used to gather data about a patient. Testing includes surface
25 electromyography and, subject to approval of the board, fine
26 wire electromyography. Testing excludes diagnostic needle
27 electromyography.

1 Sec. 49. Treatment-related tasks means activities related
2 to the practice of physical therapy that do not require the
3 clinical decisionmaking of a physical therapist or the clinical
4 problem solving of a physical therapist assistant.

5 Sec. 50. (1) No person may practice physical therapy,
6 hold oneself out as a physical therapist or physiotherapist, or
7 use the abbreviation PT in this state without being licensed by
8 the department. No person may practice as a physical therapist
9 assistant, hold oneself out as a physical therapist assistant, or
10 use the abbreviation PTA in this state without being certified by
11 the department.

12 (2) A physical therapist may use the title physical
13 therapist or physiotherapist and the abbreviation PT in connection
14 with his or her name or place of business. A physical therapist
15 assistant may use the title physical therapist assistant and the
16 abbreviation PTA in connection with his or her name.

17 (3) No person who offers or provides services to another
18 or bills another for services shall characterize such services as
19 physical therapy or physiotherapy unless such services are provided
20 by a physical therapist or a physical therapist assistant acting
21 under the general supervision of a physical therapist.

22 Sec. 51. The following classes of persons shall not be
23 construed to be engaged in the unauthorized practice of physical
24 therapy:

25 (1) A member of another profession who is credentialed by
26 the department and who is acting within the scope of practice of
27 his or her profession;

1 (2) A student in an approved educational program who is
2 performing physical therapy or related services within the scope
3 of such program and under the direct supervision of a physical
4 therapist;

5 (3) A person practicing physical therapy or as a physical
6 therapist assistant in this state pursuant to federal regulations
7 for state licensure of health care providers for the United States
8 Armed Forces, the United States Public Health Service, or the
9 United States Department of Veterans Affairs;

10 (4) A person credentialed to practice physical therapy
11 or as a physical therapist assistant in another jurisdiction of
12 the United States or in another country who is teaching physical
13 therapy or demonstrating or providing physical therapy or related
14 services in connection with an educational program in this state;

15 (5) A person credentialed to practice physical therapy
16 in another jurisdiction of the United States or in another country
17 who, by contract or employment, is providing physical therapy
18 or related services in this state to individuals affiliated with
19 established athletic teams, athletic organizations, or performing
20 arts companies while such teams, organizations, or companies are
21 present and temporarily practicing, competing, or performing in
22 this state; or

23 (6) A person employed by a school district, educational
24 service unit, or other public or private educational institution
25 or entity serving pre-kindergarten through twelfth grade students
26 who is providing personal assistance services, including mobility
27 and transfer activities, such as assisting with ambulation with

1 and without aids; positioning in adaptive equipment; application
2 of braces; encouraging active range-of-motion exercises; assisting
3 with passive range-of-motion exercises; assisting with transfers
4 with or without mechanical devices; and such other personal
5 assistance services based on individual needs as are suitable
6 to providing an appropriate educational program.

7 Sec. 52. Section 71-2803, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~71-2803~~ Every applicant for a license to practice
10 physical therapy shall:

11 (1) Present proof of completion of an approved
12 educational program; ~~as defined in section 71-2804,~~

13 (2) In the case of an applicant who has been trained
14 as a physical therapist in a foreign country, (a) present
15 documentation of completion of a course of professional instruction
16 substantially equivalent to an approved program accredited by the
17 ~~American Physical Therapy Association~~ Commission on Accreditation
18 in Physical Therapy Education or by an equivalent accrediting
19 agency as determined by the ~~Board of Physical Therapy board~~ and (b)
20 present proof of proficiency in the English language; and

21 (3) ~~Except as provided in section 71-2805, successfully~~
22 Successfully complete an examination approved by the department ~~on~~
23 ~~the upon~~ recommendation of the board.

24 Sec. 53. Every applicant for a certificate to practice as
25 a physical therapist assistant shall:

26 (1) Present proof of completion of an approved
27 educational program; and

1 (2) Successfully complete an examination approved by the
2 department upon recommendation of the board.

3 Sec. 54. Section 71-2810, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-2810 Notwithstanding any other provisions of law, a~~

6 (1) A physical therapist assistant may perform physical therapy
7 services when he or she renders such services under the general
8 supervision of a licensed physical therapist, or group of licensed
9 physical therapists approved by the board, except that no physical
10 therapist assistant shall perform the following:

11 ~~(1)~~ (a) Interpretation of physician referrals;

12 ~~(2)~~ Plan treatment programs (b) Development of a plan of
13 care;

14 ~~(3)~~ (c) Initial evaluations or reevaluation of patients;

15 ~~(4)~~ (d) Readjustment of treatment programs a plan of care
16 without consultation with the certified and licensed supervising
17 physical therapist; or

18 ~~(5)~~ (e) Discharge planning for patients. Tests and
19 measurements, with the exception of goniometry and functional
20 muscle testing;

21 ~~(6) Home instructions to patients or families;~~

22 ~~(7) Joint assessment and mobilization; or~~

23 ~~(8) Complex neurodevelopmental treatments.~~

24 (2) A physical therapist may provide general supervision
25 for no more than two physical therapist assistants. A physical
26 therapist shall not establish a satellite office at which a
27 physical therapist assistant provides care without the general

1 supervision of the physical therapist.

2 (3) A physical therapist shall reevaluate or reexamine on
3 a regular basis each patient receiving physical therapy services
4 from a physical therapist assistant under the general supervision
5 of the physical therapist.

6 (4) A supervising physical therapist and the physical
7 therapist assistant under general supervision shall review the plan
8 of care on a regular basis for each patient receiving physical
9 therapy services from the physical therapist assistant.

10 (5) A physical therapist assistant may document physical
11 therapy services provided by the physical therapist assistant
12 without the signature of the supervising physical therapist.

13 (6) A physical therapist assistant may act as a clinical
14 instructor for physical therapist assistant students in an approved
15 educational program.

16 Sec. 55. (1) For each patient under his or her care, a
17 physical therapist shall:

18 (a) Be responsible for managing all aspects of physical
19 therapy services provided to the patient and assume legal liability
20 for physical therapy and related services provided under his or her
21 supervision;

22 (b) Provide an initial evaluation and documentation of
23 the evaluation;

24 (c) Provide periodic reevaluation and documentation of
25 the reevaluation;

26 (d) Provide documentation for discharge, including the
27 patient's response to therapeutic intervention at the time of

1 discharge; and

2 (e) Be responsible for accurate documentation and billing
3 for services provided.

4 (2) For each patient under his or her care on each date
5 physical therapy services are provided to such patient, a physical
6 therapist shall:

7 (a) Provide all therapeutic interventions that require
8 the expertise of a physical therapist; and

9 (b) Determine the appropriate use of physical therapist
10 assistants or physical therapy aides.

11 Sec. 56. A physical therapy aide may perform
12 treatment-related and non-treatment-related tasks under the
13 supervision of a physical therapist or a physical therapist
14 assistant.

15 Sec. 57. Section 71-2804, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~71-2804~~ The board may approve programs for ~~For purposes~~
18 ~~of sections 71-2801 to 71-2823, approved educational program~~
19 ~~shall mean a program of physical therapy or physical therapist~~
20 ~~assistant education and training. approved by the Board of Physical~~
21 ~~Therapy.~~ Such approval may be based on the program's accreditation
22 by the ~~American Physical Therapy Association~~ Commission on
23 Accreditation in Physical Therapy Education ~~or by equivalent~~
24 standards established by the board.

25 Sec. 58. Section 71-2807, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 ~~71-2807~~ The Board of Physical Therapy shall, with the

1 ~~approval of the department, adopt and promulgate rules and~~
2 ~~regulations as necessary for the administration of sections 71-2801~~
3 ~~to 71-2823. Such rules and regulations shall include, but not~~
4 ~~be limited to, a definition for onsite supervision of a physical~~
5 ~~therapist assistant and the proper utilization of such assistant~~
6 ~~by a physical therapist and what constitutes an emergency not~~
7 ~~requiring onsite supervision of a licensed physical therapist.~~
8 The department, upon recommendation of the board, shall adopt and
9 promulgate rules and regulations to carry out the Physical Therapy
10 Practice Act. All rules and regulations adopted and promulgated
11 under this section prior to the operative date of this section
12 shall be effective until revised, amended, repealed, or nullified
13 pursuant to law.

14 Sec. 87. Original sections 71-2803, 71-2804, 71-2807 and
15 71-2810, Reissue Revised Statutes of Nebraska, and section 71-101,
16 Revised Statutes Supplement, 2005, are repealed.

17 Sec. 88. The following sections are outright repealed:
18 Sections 71-2801, 71-2802, 71-2803.01, 71-2805, 71-2808, 71-2809,
19 71-2811, 71-2812, 71-2814, 71-2815, 71-2816, 71-2817, 71-2819,
20 71-2820, 71-2821, 71-2822, and 71-2823, Reissue Revised Statutes of
21 Nebraska.

22 2. Correct the operative date section so that the
23 sections added by this amendment become operative three calendar
24 months after the adjournment of this legislative session.

25 3. Renumber the remaining sections accordingly.